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SERVICE DATE – JULY 21, 2014

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB 33 (Sub-No. 316X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—
IN FRANKLIN COUNTY, IOWA

Decided: July 21, 2014

Union Pacific Railroad Company (UP) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon a 0.59-mile line on its Bristow Subdivision, from milepost 318.07 to milepost 318.66 near Hampton, in Franklin County, Iowa. Notice of the exemption was served and published in the Federal Register on November 8, 2013 (78 Fed. Reg. 67,217).

By decision and notice of interim trail use or abandonment (NITU) served on December 10, 2013 (December 2013 decision), the proceeding was reopened and a 180-day period was authorized for the Franklin County Conservation Board and the Iowa National Heritage Foundation (collectively, Commenters) jointly to negotiate with UP for an interim trail use/rail banking agreement for the 0.59-mile line under § 8(d) of the National Trails System Act (Trails Act), 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 until June 8, 2014.¹

In a letter filed on July 1, 2014, the Commenters request an extension of the NITU negotiation period for 180 days, until December 5, 2014. The Commenters state that the additional time is needed to complete the negotiations. In a letter filed on July 2, 2014, UP states that it is willing to continue negotiations and supports the request, but for only that portion of the 0.59-mile line located between milepost 318.66 and milepost 318.10, a total distance of 0.56 miles. UP states that a portion of its Bristow Subdivision, from milepost 318.07 to milepost 318.10, is part of the proposed abandonment. That track intersects with and overlaps UP's main line known as the Mason City Subdivision. UP states that the overlap portion of the Mason City Subdivision will remain as active trackage. UP says that neither public use nor interim trail use should be granted for that portion of the line.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and is willing to continue trail use negotiations for a portion of the line, the Board retains jurisdiction and the NITU negotiating period may be

¹ The December 2013 decision also imposed a public use condition that expired on June 9, 2014, and two environmental consultation conditions regarding salvage that remain in effect. These conditions are not barriers to UP's consummation of the abandonment.

extended.² Under the circumstances, further extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d 580, 588-90 (D.C. Cir. 1996); Grantwood Vill. v. Mo. Pac. R.R., 95 F.3d 654, 659 (8th Cir. 1996). An extension of the negotiation period will promote the establishment of trails and rail banking consistent with the Trails Act. Accordingly, the negotiating period for the portion of the line from milepost 318.66 to milepost 318.10 will be extended for 180 days from June 8, 2014, until December 5, 2014. If an interim trail use agreement is reached (and thus interim trail use is established), the parties shall jointly notify the Board within 10 days that an agreement has been reached. 49 C.F.R. § 1152.29(d)(2) and (h); Nat'l Trails Sys. Act & R.R. Rights-of-Way, EP 702 (STB served Apr. 30, 2012).

This decision and notice will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. The Commenters' request to extend the NITU negotiating period for an additional 180 days is granted.
3. The NITU negotiating period is extended from June 8, 2014, to December 5, 2014, for the portion of the line from milepost 318.66 to milepost 318.10.
4. If an interim trail use/rail banking agreement is reached, the parties shall jointly notify the Board within 10 days that an agreement has been reached. 49 C.F.R. § 1152.29(d)(2) and (h).
5. This decision is effective on its service date.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

² See Rail Abans.-Use of Rights-of-Way as Trails-Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).